Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte NAG-EUI CHOI

_____

Appeal No. 1998-3409
Application No. 08/525,152

_____

ON BRIEF

_____

Before JERRY SMITH, FLEMING, and DIXON, **Administrative Patent Judges**.

DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-7, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates to an automatic head switching control method and apparatus for use in a VCR. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

> 1. An automatic head switching control apparatus for use in a VCR having a drum driven by a drum motor, said drum having a plurality of heads, the apparatus comprising:
>
> a head switching signal generator for generating a head switching signal according to drum phase generation (DPG) and drum frequency generation (DFG) signals supplied from the drum, delay data, and a shift command signal of a head switching point of time for each head;
>
> a format detector coupled to an output end of the head switching signal generator, for comparing the head switching signal with a vertical sync signal of a video signal and detecting whether an interval of time between both the head switching signal and the vertical sync signal meets a predetermined range;
>
> a controller for supplying the delay data and the shift command signal of the head switching point of time for each head to the head switching signal generator according to the output of the format detector;
>
> a storage portion for storing the delay data generated when the format detector judges that the format is met; and
>
> a drum phase detector for detecting a drum phase according to a drum reference signal output from a drum reference counter and the head switching signal output from the head switching signal generator, and supplying a drum phase control signal to the drum.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Mitsuhashi	5,243,474	Sep. 07, 1993
Park et al. (Park)	5,448,367	Sep. 05, 1995

Claims 1-7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Park in view of Mitsuhashi.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 17, mailed Apr. 29, 1998) for the examiner's reasoning in support of the rejections, and to the appellant's brief (Paper No. 16, filed Feb., 17, 1997) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

Appellant argues that the reference to Park does not teach the use of both a shift command signal and delay data. (See brief at page 11.) Appellant further argues

that Park teaches that delay data is maintained internally within the microcomputer 10b and that the delay data is neither output to the integrator circuit 10c nor to the mono-multi circuit 14. We agree with appellant that Park does not teach or suggest "a controller for supplying the delay data and the shift command signal of the head switching point of time for each head to the head switching signal generator according to the output of the format detector" as recited in claim 1. The basic problem is that the examiner is relying on essentially the same structure to provide both claim limitations, yet the examiner does not clearly explain how the reference meets the limitations as recited in claim 1. For example, the examiner maintains that the "delay data and shift command signal (output 10c and 14)" are output from "format detector 10(b)". Later the examiner maintains that "controller for supplying the delay data and shift command signal (10, 10c)" is taught by Park. (See answer at page 3.) Here, the examiner relies upon different teachings within the reference for the same information where one is the overall automatic mono-multi signal control circuit 10, and the other is a sub-unit 10c within the automatic mono-multi signal control circuit 10. The examiner then maintains that the "signal outputted from 14 is being interpreted as the delay data and shift command signal. In col. 6 lines 47-53, Park describes how the output from 14 causes the head switching signal to rise from a low state to a high state.

This is being interpreted as shifting." **Id.** We disagree with the examiner.

The examiner does not rely upon the teachings of Mitsuhashi to teach the above claim limitation. Therefore, Mitsuhashi does not remedy the deficiency in Park. Since the combination of Park and Mitsuhashi does not teach or suggest the invention as recited in claim 1, we will not sustain the rejection of claim 1 and its dependent claims 2-4.

With respect to independent method claim 5, appellant argues that Park does not teach or suggest controlling the velocity of the drum motor according to the switching signal. (See brief at page 12.) We agree with appellant. The examiner maintains that Park teaches the use of the head switching signal H S/W which is used to control the velocity. But, the language of claim 5 recites "controlling a head switching operation by varying the velocity of a drum motor according to the head switching signal." While Park states that the head switching signal is used to control the speed (see col. 4, line 61 - col. 5, line 3), we do not find that the head switching signal is input directly to the servo controller 15 to control velocity/speed. From our review of Park, Park teaches that the head switching signal is an output of the servo unit 15 which is input to the mono-multi signal generating circuit 14. Park is silent as to the use of the speed to control the head switching operation according to the head switching signal.

Therefore, we will not sustain the rejection of claim 5 and its dependent claims 6 and 7.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-7 under 35 U.S.C. § 103 is reversed.

REVERSED

JERRY SMITH Administrative Patent Judge	)))))) BOARD OF PATENT
MICHAEL R. FLEMING Administrative Patent Judge	) APPEALS) AND) INTERFERENCES
JOSEPH L. DIXON Administrative Patent Judge	))))

jld/vsh

SUGHRUE, MION, ZINN, MACPEAK AND SEAS
2100 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 20037-3202